

Internal Revenue Service

Department of the Treasury

District  
Director

Date: AUG 6 1986

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were formed on [REDACTED] under a Trust Agreement.

The Purposes for which your organization was formed are as follows:

"To devote and apply the property and any receipts or income to be derived exclusively for payment of medical expenses, convalescent and therapy expenses, expenses of retraining, support to the extent the beneficiary's disabilities prevents him from providing adequate support for himself, and other similar expenses incurred by [REDACTED] in connection with his recuperation from injuries sustained in an automobile accident."

The information submitted with your application Form 1023 indicates that your primary activity consists of providing payments for medical expenses and other costs incurred by [REDACTED] in connection with his injuries and support to the extent that his disability prevents him from providing adequate support for himself.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states to meet the operational test, an organization must be engaged in activities furthering "public purposes rather than private interest. Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals.

In Carrie A Maxwell Trust, Pasadena Methodist Foundation v. Commissioner, 2 TCM 905 (1943). It was held that a trust set up for an aged clergyman and his wife was not exempt under Section 501(c)(3) of the Code. Despite the fact that the elderly gentleman was in financial need, it was determined that this was a private trust, not a charitable trust.

Revenue Ruling 57-449, 1957-2C.B. 622 holds that a trust established to pay a certain sum to all the individuals enrolled in a certain school on a particular date to be a private trust, not a charitable trust. The beneficiaries were a group of identifiable individuals.

Like the organization described in Carrie A Maxwell Trust, Pasadena Methodist Foundation v. Commissioner and Revenue Ruling 57-449, the payment of funds to an identifiable individual by your organization serves the private interest of the beneficiary, despite the fact that the individual may be in financial need and the payment of funds maybe a charitable endeavor in other respects.

Nor does your organization's Trust Agreement meet the organization test of Regulation 1.501(c)(3)-1(b). Therefore we have determined that you are not organized or operated exclusively for charitable or other exempt purposes states in Section 501(c)(3) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the code and propose to deny your request for exemption under that section.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

If you do not agree with this determination you may protest in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completions.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

/S/ 

District Director

Enclosure: Publication 892